

HOUSE BILL 1175

A1

11r2788

By: **Delegates Barkley and Davis**

Introduced and read first time: February 16, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Direct Wine Shipment**

3 FOR the purpose of repealing provisions that provide for a direct wine seller's permit;
4 establishing a direct wine shipper's permit to be issued by the Office of the
5 Comptroller; authorizing the Office to issue a common carrier permit to certain
6 persons; specifying a certain common carrier permit fee; requiring a person to
7 be licensed before the person may engage in shipping wine directly to a direct
8 wine consumer in the State; requiring an applicant to meet certain
9 qualifications for a direct wine shipper's permit, submit an application and a
10 copy of its current alcoholic beverages license or proof of the applicant's status
11 to the Office, and pay a certain fee; specifying the term of a direct wine shipper's
12 permit; requiring a direct wine shipper to perform certain actions; prohibiting a
13 direct wine shipper from shipping more than a certain amount of wine each year
14 to any one consumer or making deliveries on Sunday; requiring a direct wine
15 shipper to meet certain requirements to renew the permit; authorizing the
16 Office to deny a renewal application under certain circumstances; specifying
17 certain requirements for receiving a direct shipment of wine; requiring a
18 common carrier to make a certain report; requiring certain persons to maintain
19 certain records for a certain period; allowing a shipment of wine to be ordered or
20 purchased through electronic or other means; authorizing the Office to adopt
21 certain regulations; prohibiting a person without a permit from shipping wine
22 directly to consumers in the State; providing that each violation of certain
23 provisions is a separate violation, subject to certain penalties; providing for the
24 application of certain provisions concerning delivery of alcoholic beverages;
25 requiring a certain security to be posted under certain circumstances; defining
26 certain terms; making certain technical corrections; altering a certain
27 definition; making the provisions of this Act severable; and generally relating to
28 the establishment of a direct wine shipper's permit.

29 BY repealing

30 Article 2B – Alcoholic Beverages

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7.5–101 through 7.5–110 and the title “Title 7.5. Direct Wine Seller’s
2 Permit”
3 Annotated Code of Maryland
4 (2005 Replacement Volume and 2010 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 2B – Alcoholic Beverages
7 Section 2–101(b)(1)(i) and (g), 9–102(a), 12–301, 14–202, and 15–204(b)
8 Annotated Code of Maryland
9 (2005 Replacement Volume and 2010 Supplement)

10 BY adding to
11 Article 2B – Alcoholic Beverages
12 Section 2–101(y); and 7.5–101 through 7.5–114 to be under the new title “Title
13 7.5. Direct Wine Shipper’s Permit”
14 Annotated Code of Maryland
15 (2005 Replacement Volume and 2010 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article 2B – Alcoholic Beverages
18 Section 16–503
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Tax – General
23 Section 5–101(a)
24 Annotated Code of Maryland
25 (2010 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article – Tax – General
28 Section 5–101(f), 5–201(d), and 13–825(b)
29 Annotated Code of Maryland
30 (2010 Replacement Volume)

31 BY adding to
32 Article – Tax – General
33 Section 13–825(i)
34 Annotated Code of Maryland
35 (2010 Replacement Volume)

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
37 MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title “Title 7.5. Direct
38 Wine Seller’s Permit” of Article 2B – Alcoholic Beverages of the Annotated Code of
39 Maryland be repealed.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article 2B – Alcoholic Beverages**

4 2–101.

5 (b) (1) (i) The Office of the Comptroller shall collect a fee for the
6 issuance or renewal of the following permits:

7 1. \$50 for a solicitor’s permit, an individual storage
8 permit, a nonresident winery permit, or a commercial nonbeverage permit;

9 2. \$75 for a public storage permit, a public
10 transportation permit, or an import and export permit;

11 3. \$200 for a public storage and transportation permit, a
12 nonresident dealer’s permit, a resident dealer’s permit, or a bulk transfer permit;

13 4. \$400 for a family beer and wine facility permit; [and]

14 5. [\$10] **\$300** for **ISSUANCE OR RENEWAL OF** a direct
15 wine [seller’s] **SHIPPER’S** permit; **AND**

16 **6. \$100 FOR A COMMON CARRIER PERMIT.**

17 (g) (1) The permit authorizes the operation of a warehouse for the storage
18 of alcoholic beverages for the accounts of other persons and for the transportation for
19 the accounts of other persons of alcoholic beverages into, within, or out of this State.

20 (2) A permit may be issued for transportation or storage, or both.

21 (3) A license or permit holder need not have a transportation permit to
22 deliver alcoholic beverages which under this article the licensee or permit holder is
23 authorized to acquire, store, sell, or use.

24 (Y) (1) **THE OFFICE OF THE COMPTROLLER MAY ISSUE A COMMON**
25 **CARRIER PERMIT TO A PERSON WHO MEETS THE DEFINITION OF A “COMMON**
26 **CARRIER” UNDER § 7.5–101 OF THIS ARTICLE.**

27 (2) **THE HOLDER OF A COMMON CARRIER PERMIT MAY DELIVER**
28 **WINE FROM A LOCATION INSIDE OR OUTSIDE THE STATE TO A CONSUMER IN**
29 **THE STATE FOR THE CONSUMER’S PERSONAL USE UNDER TITLE 7.5 OF THIS**
30 **ARTICLE.**

1 **(3) THE HOLDER OF A COMMON CARRIER PERMIT THAT**
2 **DELIVERS WINE SOLELY UNDER TITLE 7.5 OF THIS ARTICLE MAY NOT BE**
3 **REQUIRED TO OBTAIN A TRANSPORTATION PERMIT ISSUED UNDER SUBSECTION**
4 **(G) OF THIS SECTION IN ADDITION TO THE COMMON CARRIER PERMIT.**

5 **TITLE 7.5. DIRECT WINE SHIPPER'S PERMIT.**

6 **7.5-101.**

7 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
8 **INDICATED.**

9 **(B) (1) "COMMON CARRIER" MEANS A BUSINESS ENTITY THAT:**

10 **(I) HOLDS ITSELF OUT AS BEING AVAILABLE TO THE**
11 **PUBLIC TO TRANSPORT IN INTERSTATE OR FOREIGN COMMERCE FOR**
12 **COMPENSATION ANY CLASS OF PASSENGER OR PROPERTY; AND**

13 **(II) HOLDS A COMMON CARRIER PERMIT ISSUED UNDER §**
14 **2-101(Y) OF THIS ARTICLE.**

15 **(2) "COMMON CARRIER" DOES NOT INCLUDE A BUSINESS ENTITY**
16 **THAT TRANSPORTS ONLY PROPERTY IT OWNS OR THAT IS CONSIGNED TO IT.**

17 **(C) "DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE**
18 **SHIPPER'S PERMIT ISSUED UNDER THIS TITLE.**

19 **(D) "POMACE BRANDY" MEANS BRANDY THAT IS DISTILLED FROM THE**
20 **PULPY RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS**
21 **OF GRAPES.**

22 **(E) "WINE" INCLUDES POMACE BRANDY.**

23 **7.5-102.**

24 **A PERSON SHALL BE ISSUED A DIRECT WINE SHIPPER'S PERMIT BY THE**
25 **OFFICE OF THE COMPTROLLER AS A DIRECT WINE SHIPPER BEFORE THE**
26 **PERSON MAY ENGAGE IN SHIPPING WINE DIRECTLY TO A CONSUMER IN THE**
27 **STATE.**

28 **7.5-103.**

29 **TO QUALIFY FOR A DIRECT WINE SHIPPER'S PERMIT, AN APPLICANT**
30 **SHALL BE:**

1 (1) A PERSON LICENSED OUTSIDE THE STATE TO ENGAGE IN THE
2 MANUFACTURE OF WINE; OR

3 (2) A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A
4 CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE.

5 **7.5-104.**

6 (A) AN APPLICANT FOR A DIRECT WINE SHIPPER'S PERMIT SHALL:

7 (1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A
8 COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE
9 COMPTROLLER PROVIDES;

10 (2) PROVIDE TO THE OFFICE OF THE COMPTROLLER A COPY OF
11 THE APPLICANT'S CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

12 (3) PAY A FEE OF \$300 FOR INITIAL ISSUANCE OF THE DIRECT
13 WINE SHIPPER'S PERMIT.

14 (B) THE OFFICE OF THE COMPTROLLER SHALL ISSUE A DIRECT WINE
15 SHIPPER'S PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF
16 THIS TITLE FOR THE DIRECT WINE SHIPPER'S PERMIT.

17 **7.5-105.**

18 A DIRECT WINE SHIPPER'S PERMIT ENTITLES THE HOLDER TO SELL WINE
19 THROUGH A HOLDER OF A COMMON CARRIER PERMIT TO A CONSUMER BY
20 RECEIVING AND FILLING ORDERS THAT THE CONSUMER TRANSMITS BY
21 ELECTRONIC OR OTHER MEANS.

22 **7.5-106.**

23 THE TERM OF A DIRECT WINE SHIPPER'S PERMIT IS 1 YEAR AND BEGINS
24 ON JULY 1.

25 **7.5-107.**

26 (A) A DIRECT WINE SHIPPER SHALL:

27 (1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY
28 TO A CONSUMER IN THE STATE ARE CONSPICUOUSLY LABELED WITH:

1 **(I) THE NAME OF THE DIRECT WINE SHIPPER;**

2 **(II) THE NAME AND ADDRESS OF THE CONSUMER WHO IS**
3 **THE INTENDED RECIPIENT; AND**

4 **(III) THE WORDS “CONTAINS ALCOHOL: SIGNATURE OF**
5 **PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY”;**

6 **(2) REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER**
7 **THE TOTAL AMOUNT OF WINE, BY TYPE, SHIPPED IN THE STATE, THE PRICE**
8 **CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;**

9 **(3) FILE A QUARTERLY TAX RETURN IN ACCORDANCE WITH §**
10 **5–201(D) OF THE TAX – GENERAL ARTICLE;**

11 **(4) PAY QUARTERLY TO THE OFFICE OF THE COMPTROLLER ALL**
12 **SALES TAXES AND EXCISE TAXES DUE ON SALES TO CONSUMERS IN THE STATE**
13 **AND CALCULATE THE TAXES AS IF THE SALE WERE MADE AT THE DELIVERY**
14 **LOCATION;**

15 **(5) MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND**
16 **ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE**
17 **WITH THIS TITLE;**

18 **(6) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN**
19 **AUDIT OF THE DIRECT WINE SHIPPER’S RECORDS ON REQUEST; AND**

20 **(7) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE**
21 **COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING**
22 **ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.**

23 **(B) A DIRECT WINE SHIPPER MAY NOT:**

24 **(1) SHIP MORE THAN 12 9–LITER CASES OF WINE EACH YEAR TO**
25 **ANY ONE CONSUMER; OR**

26 **(2) CAUSE WINE TO BE DELIVERED ON SUNDAY TO AN ADDRESS**
27 **IN THE STATE.**

28 **7.5–108.**

29 **(A) A DIRECT WINE SHIPPER MAY RENEW ITS DIRECT WINE SHIPPER’S**
30 **PERMIT EACH YEAR IF THE DIRECT WINE SHIPPER:**

1 (1) IS OTHERWISE ENTITLED TO HAVE A DIRECT WINE SHIPPER'S
2 PERMIT;

3 (2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF
4 ITS CURRENT PERMIT; AND

5 (3) PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE
6 OF \$300.

7 (B) THE OFFICE OF THE COMPTROLLER MAY DENY A RENEWAL
8 APPLICATION OF A DIRECT WINE SHIPPER WHO FAILS TO:

9 (1) FILE A TAX RETURN REQUIRED UNDER THIS TITLE;

10 (2) PAY A FEE OR TAX WHEN DUE; OR

11 (3) AFTER RECEIVING NOTICE, COMPLY WITH A PROVISION OF
12 THIS ARTICLE OR A REGULATION THAT THE OFFICE OF THE COMPTROLLER
13 ADOPTS UNDER THIS ARTICLE.

14 **7.5-109.**

15 (A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A CONSUMER IN THE
16 STATE SHALL BE AT LEAST 21 YEARS OLD.

17 (B) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE
18 SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.

19 **7.5-110.**

20 (A) A PERSON SHALL BE ISSUED A COMMON CARRIER PERMIT BEFORE
21 THE PERSON MAY ENGAGE IN TRANSPORTING WINE FROM A DIRECT WINE
22 SHIPPER TO A CONSUMER.

23 (B) THE TERM OF A COMMON CARRIER PERMIT IS 1 YEAR AND BEGINS
24 ON JULY 1.

25 (C) TO COMPLETE DELIVERY OF A SHIPMENT, THE COMMON CARRIER
26 SHALL REQUIRE FROM A CONSUMER AT THE ADDRESS LISTED ON THE SHIPPING
27 LABEL:

28 (1) THE SIGNATURE OF THE CONSUMER OR ANOTHER
29 INDIVIDUAL AT THE ADDRESS WHO IS AT LEAST 21 YEARS OLD; AND

1 **(2) GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION**
2 **SHOWING THAT THE SIGNING INDIVIDUAL IS AT LEAST 21 YEARS OLD.**

3 **(D) A COMMON CARRIER SHALL REFUSE DELIVERY WHEN THE**
4 **INTENDED RECEIVING INDIVIDUAL APPEARS TO BE UNDER 21 YEARS OF AGE OR**
5 **REFUSES TO PRESENT VALID IDENTIFICATION.**

6 **7.5-111.**

7 **(A) A COMMON CARRIER SHALL REPORT QUARTERLY TO THE OFFICE**
8 **OF THE COMPTROLLER:**

9 **(1) THE DATE OF EACH DELIVERY OF WINE IN THE STATE; AND**

10 **(2) THE NAME AND ADDRESS OF THE DIRECT WINE SHIPPER AND**
11 **THE RECEIVING CONSUMER OF EACH DELIVERY.**

12 **(B) A COMMON CARRIER SHALL MAINTAIN FOR A PERIOD OF 3 YEARS**
13 **COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY**
14 **COMPLIANCE WITH THIS TITLE.**

15 **7.5-112.**

16 **THE OFFICE OF THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY**
17 **OUT THIS TITLE.**

18 **7.5-113.**

19 **A BUSINESS ENTITY WITHOUT A DIRECT WINE SHIPPER'S PERMIT MAY**
20 **NOT SHIP WINE DIRECTLY TO CONSUMERS IN THE STATE.**

21 **7.5-114.**

22 **EACH VIOLATION OF THIS TITLE IS A SEPARATE VIOLATION.**

23 **9-102.**

24 **(a) (1) No more than one license provided by this article, except by way of**
25 **renewal or as otherwise provided in this section, shall be issued in any county or**
26 **Baltimore City, to any person, or for the use of any partnership, corporation,**
27 **unincorporated association, or limited liability company, in Baltimore City or any**
28 **county of the State[, and no].**

1 **(2)** **NO** more than one license shall be issued for the same premises
2 except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 **AND TITLE 7.5** of
3 this article[, and nothing herein shall].

4 **(3)** **THIS SUBSECTION MAY NOT** be construed to apply to §
5 6–201(r)(4), (15), (17), and (18), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e),
6 § 8–508, § 8–902, § 9–217(b–1), or § 12–202 of this article.
7 12–301.

8 (a) (1) A retail dealer may not employ any solicitor or salesman for the
9 purpose of soliciting, outside of the licensed place of business, orders for the sale of any
10 alcoholic beverages within this State.

11 (2) The sale of alcoholic beverages may not be consummated outside of
12 the licensed place of business.

13 (3) These provisions do not prohibit the receiving of orders by mail,
14 telephone or messenger and the filling of such orders by delivery and the payment for
15 them at the place of delivery.

16 (b) Retail delivery to a purchaser of any alcoholic beverages is prohibited
17 unless:

18 (1) The delivery is made from the retail licensed premises by the retail
19 license holder or employee of the retail license holder authorized to sell and distribute
20 alcoholic beverages by the local licensing authority in the jurisdiction where the
21 delivery is made; and

22 (2) The retail license holder obtains a letter of authorization from the
23 local licensing authority to make deliveries and complies with any regulations
24 promulgated by the local licensing authority pertaining to those deliveries.

25 (c) (1) This subsection applies only in Howard County.

26 (2) An alcoholic beverages licensee may not make a retail delivery of
27 alcoholic beverages unless the purchaser:

28 (i) Is physically present on the licensed premises when the
29 purchaser orders the alcoholic beverages; and

30 (ii) Makes payment for the purchase at the time of the order.

31 (d) (1) This subsection applies only in Montgomery County.

32 (2) An alcoholic beverages licensee may not make an off–site retail
33 delivery of alcoholic beverages unless:

1 (i) The deliverer is at least:

2 1. 21 years old; or

3 2. 18 years old and is accompanied by a supervisor who
4 is at least 21 years old; and

5 (ii) The person taking possession of the delivery provides the
6 deliverer with written certification supported by documentary proof that the person is
7 of legal age to purchase alcoholic beverages. Certification shall be in the form set forth
8 in § 12–109(1) of this article.

9 (3) (i) Each certification executed under this subsection shall be
10 retained by the licensee for at least 1 year.

11 (ii) The certifications shall be available for examination during
12 regular business hours by an authorized representative of the Board of License
13 Commissioners.

14 (4) The Board of License Commissioners shall adopt regulations to
15 implement this subsection.

16 (e) (1) This subsection applies only in Garrett County.

17 (2) The Board of License Commissioners may issue a delivery option
18 that entitles an alcoholic beverages licensee or an authorized employee of the licensee
19 to make an off-site retail delivery of alcoholic beverages if:

20 (i) The deliverer is at least 21 years old and certified by an
21 approved alcohol awareness program;

22 (ii) The deliverer and purchaser endorse a delivery form that
23 the Board of License Commissioners approves certifying that:

24 1. The person who receives the delivery claims to be at
25 least 21 years old, and the claim is supported by documentary proof;

26 2. The person who receives the delivery knows that it is
27 a criminal offense for alcoholic beverages to be furnished to a person under the age of
28 21 years; and

29 3. The deliverer examined the purchaser's identification.

30 (3) Each delivery form endorsed under paragraph (2)(ii) of this
31 subsection shall be submitted to the Board of License Commissioners on or before the
32 10th day of the following month.

1 (4) (i) The annual fee for a delivery option is \$150.

2 (ii) In addition to an annual fee, the Board of License
3 Commissioners shall charge an issuing fee of \$150.

4 (5) The Board of License Commissioners shall adopt regulations to
5 carry out this subsection.

6 **(F) THIS SECTION DOES NOT APPLY TO:**

7 **(1) THE DELIVERY OF WINE FROM A DIRECT WINE SHIPPER TO A**
8 **CUSTOMER USING A COMMON CARRIER IN ACCORDANCE WITH TITLE 7.5 OF**
9 **THIS ARTICLE; OR**

10 **(2) THE HOLDER OF A COMMON CARRIER PERMIT IN THE COURSE**
11 **OF DELIVERING DIRECTLY SHIPPED WINE IN ACCORDANCE WITH TITLE 7.5 OF**
12 **THIS ARTICLE.**

13 14–202.

14 **(A)** Every common carrier, by rail, air, water or highway, transporting
15 alcoholic beverages, either in interstate or intrastate commerce, to points within the
16 State of Maryland, and every person transporting alcoholic beverages by [whatsoever
17 manner] **ANY MEANS** within the State of Maryland, shall at any time and from time to
18 time, upon written request of the Comptroller, report under oath on forms prescribed
19 by the Comptroller, all such consignments or deliveries of alcoholic beverages, for such
20 period as the Comptroller may specify.

21 **(B)** If required by the Comptroller, [such] **THE** reports shall show [the]:

22 **(1) THE** name and address of the person to whom the deliveries of
23 alcoholic beverages have actually and in fact been made [, the];

24 **(2) THE** name and address of the original consignee, if alcoholic
25 beverages have been delivered to any other **PERSON** than the originally named
26 consignee [, the];

27 **(3) THE** point of origin, the point of delivery, the date of delivery and
28 the number and initials of each car, if shipped by rail, the name of the boat, barge or
29 vessel, if shipped by water, the license number of each truck, if shipped by motor
30 truck, or if delivered by other means, the manner in which [such] **THE** delivery was
31 made[, the];

32 **(4) THE** kind of alcoholic beverages and the number of gallons
33 [thereof] **OF EACH** contained in any such shipment or shipments; and [such]

1 **(5)** ANY other additional information relative to shipments [as] THAT
2 the Comptroller may require.

3 **(C)** Nothing [herein shall] **IN THIS SECTION MAY** be construed to authorize
4 [the]:

5 **(1)** THE consignment of alcoholic beverages from any point outside of
6 the State to points within the State of Maryland, to any person except [the]:

7 **(I)** THE holder of a permit or manufacturer's or wholesaler's
8 license, duly issued under [the provisions of] this article; or [the]

9 **(II) A PERSONAL CONSUMER UNDER TITLE 7.5 OF THIS**
10 **ARTICLE; OR**

11 **(2)** THE consignment of alcoholic beverages from any point within this
12 State to a point outside the State, to any person not authorized to receive the same
13 under the law of the point of destination.

14 15–204.

15 (b) (1) Provided, that in Montgomery County no person, firm, or
16 corporation shall keep for sale any alcoholic beverage not purchased from the
17 Department of Liquor Control for Montgomery County, provided, however, that
18 nothing in this subsection shall apply to a holder of a Class F license or a holder of a
19 Class 1 beer, wine and liquor, Class 2 wine and liquor, Class 3 beer and wine, Class 4
20 beer, or Class 5 wine wholesaler's license, who may not sell or deliver any alcoholic
21 beverage in Montgomery County for resale except to a county liquor dispensary.

22 (2) Notwithstanding paragraph (1) of this subsection:

23 (i) 1. A holder of a Class 6 limited wine wholesaler's license
24 or of a nonresident winery permit may sell or deliver wine directly to a county liquor
25 dispensary, restaurant, or other retail dealer in Montgomery County; and

26 [(ii)] 2. A county liquor dispensary, restaurant, or other retail
27 dealer in Montgomery County may purchase wine directly from a holder of a Class 6
28 limited wine wholesaler's license or of a nonresident winery permit; AND

29 **(II) A HOLDER OF A DIRECT WINE SHIPPER'S PERMIT MAY**
30 **SHIP WINE DIRECTLY TO A CONSUMER IN MONTGOMERY COUNTY.**

31 16–503.

1 Any person violating the provisions of this article for which no penalty, other
2 than the suspension or revocation of a license or permit, is provided, shall be deemed
3 guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not
4 more than one thousand dollars (\$1,000.00) or to imprisonment for not more than two
5 years in the House of Correction, or jail, or both fined and imprisoned.

6 Article – Tax – General

7 5–101.

8 (a) In this title the following words have the meanings indicated.

9 (f) “Direct wine [seller] **SHIPPER**” has the meaning stated in Article 2B, §
10 7.5–101 of the Code.

11 5–201.

12 (d) [(1)] A person who is a direct wine [seller] **SHIPPER** shall file with the
13 Office of the Comptroller [an annual] **A QUARTERLY** tax return.

14 [(2)] The annual tax return shall be due no later than October 15 of
15 each year covering the previous 12 calendar months ending September 30.]

16 13–825.

17 (b) The Comptroller shall require:

18 (1) a manufacturer, wholesaler, or nonresident winery permit holder
19 who sells or delivers beer or wine to retailers in the State to post security for the
20 alcoholic beverage tax:

21 (i) in an amount not less than:

22 1. \$1,000 for beer; and

23 2. \$1,000 for wine; and

24 (ii) if the alcoholic beverage tax on beer and wine paid in any 1
25 month exceeds \$1,000, in an additional amount at least equal to the excess; [and]

26 (2) a manufacturer or wholesaler who sells or delivers any distilled
27 spirits or any wine and distilled spirits in the State to post a security for the alcoholic
28 beverage tax:

29 (i) in an amount not less than \$5,000; and

30 (ii) in an additional amount:

1 1. equal to twice the amount of its largest monthly
2 alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar
3 year less \$5,000; or

4 2. if the information for the preceding calendar year is
5 not available or cannot be provided, equal to the amount that the Comptroller
6 requires; AND

7 **(3) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A**
8 **HOLDER OF A DIRECT WINE SHIPPER'S PERMIT TO POST SECURITY FOR THE**
9 **ALCOHOLIC BEVERAGE TAX IN AN AMOUNT NOT LESS THAN \$1,000.**

10 **(I) A PERSON NEED NOT POST SECURITY UNDER SUBSECTION (B)(3) OF**
11 **THIS SECTION IF:**

12 **(1) THE PERSON IS A MANUFACTURER THAT HAS POSTED**
13 **SECURITY UNDER SUBSECTION (B)(2) OF THIS SECTION; OR**

14 **(2) NOT LATER THAN THE THIRD ANNIVERSARY OF ISSUING A**
15 **PERMIT TO THE PERSON, THE COMPTROLLER:**

16 **(I) DETERMINES THAT THE PERSON HAS A SUBSTANTIAL**
17 **RECORD OF TAX AND REPORTING COMPLIANCE; AND**

18 **(II) WAIVES THE SECURITY REQUIREMENT.**

19 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
20 Act or the application thereof to any person or circumstance is held invalid for any
21 reason in a court of competent jurisdiction, the invalidity does not affect other
22 provisions or any other application of this Act which can be given effect without the
23 invalid provision or application, and for this purpose the provisions of this Act are
24 declared severable.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2011.